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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:) NMLS ID: 1153513
)
THE COMMISSIONER OF BUSINESS) ORDER SUSPENDING AND DECLINING TO
OVERSIGHT,) RENEW MORTGAGE LOAN ORIGINATOR
) LICENSE
Complainant,)
)
v.)
)
HARRY BASSON,)
)
Respondent.)
)

The Complainant, the Commissioner of Business Oversight (Commissioner) finds that:

1. Harry Basson (Respondent) received a mortgage loan originator (MLO) license on or around March 30, 2015, pursuant to the California Residential Mortgage Lending Act (Fin. Code § 50000 et seq.) (CRMLA). On January 1, 2018, Respondent's MLO license expired because Respondent did not meet the requirements for renewal under Financial Code section 50144.
2. On March 6, 2015, Respondent filed an application for an MLO license with the Commissioner by submitting a Form MU4 through the Nationwide Mortgage Licensing System (NMLS) (hereinafter, Application) pursuant to Financial Code section 50140.

1 3. Respondent answered “No” to Question (H)(1) regarding criminal disclosures on the
2 Application: “Have you ever been convicted of or pled guilty or nolo contendere (‘no contest’) in a
3 domestic, foreign, or military court to committing or conspiring to commit a misdemeanor
4 involving: (i) financial services or a financial services-related business, (ii) fraud, (iii) false
5 statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii)
6 forgery, (viii) counterfeiting, or (ix) extortion?”

7 4. In fact, on October 7, 2011, the Los Angeles City Attorney charged Respondent with
8 eight misdemeanor counts, and on or around March 6, 2013, he pled no contest to Count I (Penal
9 Code section 182(a)(1), conspiracy to commit any crime); Count II (Penal Code section 186.10(a),
10 money laundering); and Count VI (Business and Professions Code section 7028(a), engaging in the
11 business of or acting in the capacity of a contractor within this state without having a license) in the
12 complaint in *The People of the State of California v. Harry Basson a.k.a. Hertzell Bass dba KLM*
13 (Case No. 1CA01190) (Misdemeanor Case).

14 5. Respondent also answered “No” to Question (N) regarding pending regulatory
15 actions on the Application: “Is there a pending regulatory action proceeding against you for any
16 alleged violation described in (K) through (L)?” Question (K) on the Application states, in relevant
17 part: “(K) Has any State or federal regulatory agency . . . ever: . . . (1) found you to have made a
18 false statement or omission or been dishonest, unfair or unethical?” Respondent answered
19 “No.”

20 6. In fact, on March 3, 2015, or three days before Respondent filed the Application on
21 NMLS with the Commissioner, the BRE initiated a regulatory proceeding, *In the Matter of the*
22 *Accusation of Harry Basson* (No. H-39758 LA), against Respondent by issuing an Accusation
23 charging violations of the Business and Professions (B&P) Code, including but not limited to:
24 section 10186.2 (failing to report to the BRE within 30 days any conviction, plea of guilty or no
25 contest, of any felony or misdemeanor); and section 10177, subdivision (a) (procurement of a real
26 estate license or license renewal by fraud, misrepresentation, or deceit, or by making a material
27 misstatement of fact in an application) (March 2015 BRE Accusation).
28

1 7. In the Application’s section entitled, “Attestation,” Respondent swore, agreed to, and
2 represented that “the information and statements contained herein . . . are current, true, accurate and
3 complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or
4 similar provisions as provided by law . . . ***To keep the information contained in this form current***
5 ***and to file accurate supplementary information on a timely basis . . .***” (Emphasis added.)

6 8. Despite receiving notice of March 2015 BRE Accusation and filing his Notice of
7 Defense with the BRE on March 13, 2015, Respondent failed to amend his Application to disclose
8 the pending regulatory proceeding until June 2, 2015, or 81 days after he had notice.

9 9. On June 2, 2015, Respondent amended his Application by changing his previous
10 “No” answers in Questions (H)(1) regarding criminal disclosures, (N) regarding pending regulatory
11 actions, and (K) regarding findings of false statements by a regulatory agency, to “Yes.” He
12 provided the following explanation for the three “Yes” answers, in the section, “Disclosure
13 Explanations:”

14 I told the bre (sic) before I file with nmls (sic) and I believe that you have
15 this information from the bre. That (sic) why I said no to the question
16 because no new information to tel (sic) you after this conviction that I told
17 the bre. I don’t try to hide I know you will find this on my background
18 check but I truly believed that you know through the bre and I am sorry
19 for my misunderstanding. This conviction was on job that I did back in
20 about 02/2006 and customer complained on about 10/2011 that the job not
21 don (sic) right and because I work with no lic. the (sic) a complain .(time
22 laps (sic) to old for complain 2006 to 2011) I am 65 years old I don’t have
23 any criminal in all my life except this that I work with no lic. for Q N I
24 have a hearing with the bre for no telling them on my convaction, (sic)

25 10. On or around July 13, 2015, or at least 122 days after he had been served with the
26 March 2015 BRE Accusation, Respondent submitted to the Commissioner the March 2015 BRE
27 Accusation by uploading it as a supporting file onto NMLS.

28 11. On or around July 13, 2015, Respondent also submitted for the first time information
regarding his past criminal history by uploading onto NMLS a 10-page case history report dated
12/18/13 for Case No. 1CA01190, which disclosed that on October 7, 2011, the Los Angeles City
Attorney charged Respondent with eight misdemeanor counts, and on or around March 6, 2013 he
pled no contest to Count I (Penal Code section 182(a)(1), conspiracy to commit any crime); Count

II (Penal Code section 186.10(a), money laundering); and Count VI (B&P Code section 7028(a), engaging in the business of or acting in the capacity of a contractor within this state without having a license). Respondent did not submit any additional documentation regarding his criminal or regulatory history.

12. On or around August 27, 2015, the Department directed Respondent to update the Department once there was a final disposition in the pending March 2015 BRE Accusation.

13. On January 24, 2017, Respondent updated his Form MU4 to disclose that on February 22, 2016 the BRE revoked his real estate salesperson license. Respondent waited 1.5 years to update the Department of the final disposition in the March 2015 BRE Accusation.

14. On or around February 17, 2017, the Department directed Respondent to submit by uploading as a supporting file onto NMLS the final disposition of the March 2015 BRE Accusation. To date, Respondent has not uploaded the final disposition of the March 2015 BRE Accusation as required.

15. The Department's own investigation revealed that on March 6, 2013, two years prior to his filing the Application, Respondent signed a Stipulation to Sentencing Order and Sentencing Order whereby Respondent pled "No Contest" to the following: "P.C. 182(a)(1); P.C. 186.10(a); B.P. 7028(a)."

16. The complaint in the Misdemeanor Case to which Respondent pled "No Contest" provided in pertinent part:

Count I, a misdemeanor violation of Penal Code section 182(a), conspiracy to commit the following: "a) Grand Theft . . . b) Forgery . . . c) Financial Elder Abuse . . . d) Misrepresented License Number . . . a contractor's license . . . e) Diversion of Funds . . . f) Money Laundering . . ."

Count II, a misdemeanor violation of Penal Code section 186.10 by "conduct[ing] a transaction or more than one transaction within a seven-day period involving a monetary instrument or instruments of a total value exceeding five-thousand dollars (\$5,000) through one or more financial institutions, knowing that the monetary instrument or instruments represented the proceeds of, or was derived directly from the proceeds of, criminal activity . . . in the amount of \$19,675.00 pursuant to a reverse mortgage loan . . . obtained by theft, fraud and deception . . ."

Count VI, a misdemeanor violation of Business and Professions Code section 7028(a) by “engag[ing] in the business of or act[ing] in the capacity of a contractor within this state without having a license.”

17. From the date of the Application (March 6, 2015) through at least June 2, 2015, when Respondent amended his Application by changing “No” answers to “Yes,” Respondent withheld the existence of his criminal conviction from the Commissioner, even though the 10-page print out he submitted on July 13, 2015 discloses that on 11/30/11, “[a] copy of the complaint and the arrest report [was] given to Defendants Counsel.”

18. California Code of Regulations, title 10, section 1950.122.9 provides in pertinent part:

(a) Each licensed residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall, upon any change in the information contained in its application for license (other than financial information contained therein), ***promptly*** file an amendment to such application setting forth the changed information. .

..

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner ***within twenty (20) days of changes to the information***. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. ***A mortgage loan originator may not renew his or her license under Section 1950.122.5.3 of Subchapter 11.5 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.*** (Emphasis added.)

19. Financial Code section 50316, subdivision (a), provides in pertinent part:

(a) For any licensee, a disciplinary action taken by the State of California . . . for any action substantially related to the activity regulated under this law may be a ground for disciplinary action by the commissioner

20. Financial Code section 50327 provides:

(a) The commissioner may, after notice and a reasonable opportunity to be heard, deny, decline to renew, suspend, or revoke any license if the commissioner finds that:

(1) The licensee has violated any provision of this division or any rule or order of the commissioner thereunder.

(2) Any fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

(b) The power of investigation and examination by the commissioner is not terminated by the denial, nonrenewal, surrender, suspension, or revocation of any license issued by him or her.

21. Respondent failed to file a change of information within 20 days to his Form MU4 after the BRE revoked his real estate salesperson license on February 22, 2016, and instead waited 337 days to amend his Form MU4, in violation of California Code of Regulations, title 10, section 1950.122.9(c).

22. BRE's revocation of Respondent's real estate salesperson license for violations of the B&P Code and the Los Angeles City Attorney's Misdemeanor Case on behalf of the People of the State of California constitute disciplinary actions by the State of California for actions that are substantially related to the activity regulated under the CRMLA, providing grounds for disciplinary action by the Commissioner pursuant to Financial Code section 50316.

23. Moreover, the BRE's revocation of Respondent's real estate salesperson license on February 22, 2016, Respondent's continuing failure since February 17, 2017 to the present date to upload supporting documentation of the final revocation order, and Respondent's failure to disclose his criminal conviction that occurred more than two years prior to the Application, constitute facts or conditions that, "if [they] had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally," under Financial Code section 50327(a)(2).

24. Financial Code section 50513, subdivision (a), provides in pertinent part:

(a) The commissioner may do *one or more* of the following:

(1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.

(2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 50141 or 50144, or withholds information or makes a material misstatement in an application for a license or license renewal (Emphasis added.)

25. Financial Code section 50141 provides in pertinent part:

(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes at a minimum the following findings . . .

(3) The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division

26. Financial Code section 50144 provides in pertinent part:

(b) The minimum standards for license renewal for mortgage loan originators shall include the following:

(1) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 50141

27. Based on the foregoing, on February 27, 2018, pursuant to Financial Code sections: 50513; 50327; 50316; 50141; and 50144, the Commissioner issued to Respondent the following: (1) Notice of Intention to Suspend and Decline to Renew Mortgage Loan Originator License; (2) Statement to Respondent; (3) Accusation; (4) Government Code sections 11507.5, 11507.6 and 11507.7 relating to discovery; and (5) a blank Notice of Defense (Accusation).

28. On March 5, 2018, Respondent was served with the Accusation at his business address on file with the Commissioner.

29. Respondent did not request a hearing regarding the Accusation, and the time to request a hearing has expired.

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1 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the mortgage
2 loan originator license of Respondent Harry Basson be suspended and not renewed for a period of
3 five years to commence on March 28, 2018 through the close of business on March 28, 2023. This
4 order is effective as of the date hereof.

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6 Dated: March 28, 2018
7 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

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9 By _____
10 Mary Ann Smith
11 Deputy Commissioner
12 Enforcement Division
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